

REMARKS

This is in response to the Office Action mailed April 7, 2008. In the Office Action all claims 1-10 were pending and rejected. With this Amendment, independent claim 10 is amended and the remaining claims are unchanged in the application.

Section One of the Office Action indicated that independent claim 10 was rejected under 35 U.S.C. § 101 because data structures claimed as not embodied in computer-readable media are descriptive per se and are not statutory. In response, Applicant has amended independent claim 10 to indicate that the data structure is embodied upon a computer-readable storage medium. Support for this limitation can be found, at least, on page 6, line 28 – page 7, line 11. Accordingly, Applicant respectfully submits that amended independent claim 10 complies with 35 U.S.C. § 101 and that the rejection of independent claim 10 may now be withdrawn.

Section Three of the Office Action indicated that claims 1-10 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by McGoveran (U.S. Patent No. 7,103,597). Applicant respectfully traverses this rejection. In particular, Applicant respectfully notes that 35 U.S.C. § 102(e) requires that the invention be described in “a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent.” Applicant respectfully notes that the McGoveran has an initial filing date of October 3, 2002. Further, Applicant respectfully notes that the present application claims priority to United States Provisional Application 60/397,233 filed July 19, 2002. Applicant respectfully notes that the original specification contained a typographical error erroneously indicating the filing date of the provisional application as being July 19, 2003. With this Amendment, this typographical error is fixed. Additionally, both the Declaration filed with the application as well as the Application Data Sheet filed with the application correctly listed the date of the provisional application as July 19, 2002. Accordingly, Applicant respectfully submits that priority to the provisional application having a priority date of July 19, 2002 has been properly claimed. This is further evidenced by the filing receipt of October 21, 2003. Therefore, Applicant respectfully submits

that the McGoveran reference is not available under 35 U.S.C. 102(e) as prior art. Accordingly, Applicant respectfully submits that all claims 1-10 are allowable.

In conclusion, Applicant submits that the entire application is in condition for allowance. Reconsideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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